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Heritage Services, Inc. and Security Workers Health and Welfare Fund and United Union of Security Guards, Party in Interest. Case 5-CA-28938

September 19, 2001

DECISION AND ORDER

BY MEMBERS LIEBMAN, TRUESDALE, AND WALSH

Upon a charge filed by the Security Workers Health and Welfare Fund on April 17, 2000, the General Counsel of the National Labor Relations Board issued a complaint on August 28, 2000 against Heritage Services, Inc., the Respondent, alleging that it has violated Section 8(a)(1) and (5) of the National Labor Relations Act. Subsequently, on September 11, 2000, the Respondent filed a timely answer to the complaint.

Thereafter, on May 8, 2001, the General Counsel issued a compliance specification that, among other things, set forth amounts that the Respondent allegedly owed to Charging Party Security Workers Health and Welfare Fund and the Security Workers Severance and Welfare Fund for hours worked by unit employees during the period from October 15 to November 17, 1999. Subsequently, the Respondent filed an answer admitting all of the allegations of the compliance specification.

On June 18, 2001, the General Counsel filed with the Board a motion to transfer and continue proceeding before the Board and for Summary Judgment. On June 20, 2001, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

The complaint alleges, among other things, that from May 1 to November 17, 1999, United Union of Security Guards (the Union) was the designated collective-bargaining representative of a unit of the Respondent's security guard employees, and that the Respondent recognized the Union as the representative. The complaint also alleges that the Respondent violated Section 8(a)(5) and (1) of the Act by failing to remit contributions to the Union's Health and Welfare Fund, and its Severance and Retirement Fund for hours worked by unit employees during the period from October 15 to November 17, 1999. The Respondent's answer admits all of the allegations of the complaint, except the Respondent states that

it "is without sufficient information to admit or deny" the allegation that the Union is a labor organization within the meaning of Section 2(5) of the Act, and therefore the Respondent's answer denies this allegation. We find, however, that this denial does not raise any issue regarding the labor organization status of the Union, in view of the Respondent's admissions that from May 1 to November 17, 1999, the Union was the designated exclusive collective-bargaining representative of the unit based on Section 9(a) of the Act, and that during this period, the Respondent recognized the Union as the exclusive bargaining representative and this recognition was embodied in a recognition agreement dated April 29, 1999. Accordingly, we find that the Respondent has admitted all of the material allegations of the complaint.

In light of the Respondent's admissions in its answer to the complaint, the General Counsel issued a compliance specification on May 8, 2001, which set forth the amounts that the Respondent owed to the Union's Health and Welfare Fund and the Severance and Retirement Fund as a result of the Respondent's failure to remit payments due for unit employees for hours worked between October 15 and November 17, 1999. On June 7, 2001, the Respondent filed an answer to the compliance specification admitting all of its allegations.

Accordingly, in light of the admissions set forth in the Respondent's answers to the complaint and the compliance specification, there are no issues in this proceeding warranting a hearing, and we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent, a Virginia corporation, has maintained an office and place of business at the National Computer Center and Security West facilities at the Social Security Administration in Baltimore, Maryland, where it has been engaged in providing security services to an agency of the United States Government. During the 12 months preceding issuance of the complaint, a representative period, the Respondent, in conducting its business operations, received gross revenues in excess of \$50,000 for services performed for the United States Government. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act. We also find that at all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

The following employees of the Respondent (the unit) constitute a unit appropriate for the purposes of collec-

tive bargaining within the meaning of Section 9(b) of the Act:

All security guard employees employed by Respondent at the National Computer Center and Security West facilities of the Social Security Administration; excluding officers, directors, clerical employees, lieutenant and sergeant employees, project manager, all other non-guard employees, managerial employees and supervisors as defined in the Act.

From May 1 to November 17, 1999, the Union was the designated exclusive collective-bargaining representative of the unit and, during that period, the Union was recognized as the representative by the Respondent. This recognition was embodied in a recognition agreement dated April 29, 1999.

At all times between May 1 and November 17, 1999, based on Section 9(a) of the Act, the Union was the designated exclusive collective-bargaining representative of the unit.

Since on about October 15, 1999, the Respondent has failed to remit contributions to the Security Workers Health and Welfare Fund for hours worked by unit employees during the period from October 15 to November 17, 1999. Since on about November 15, 1999, the Respondent has failed to remit contributions to the Security Workers Severance and Retirement Fund for hours worked by unit employees during the period from October 15 to November 17, 1999. These subjects relate to wages, hours, and other terms and conditions of employment of the unit and are mandatory subjects for the purposes of collective bargaining.

The Respondent engaged in the conduct described above without prior notice to the Union and without affording the Union an opportunity to bargain with the Respondent with respect to this conduct and the effects of this conduct.

CONCLUSION OF LAW

By the acts and conduct described above, the Respondent has failed and refused to bargain collectively with the exclusive collective-bargaining representative of its employees, and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and (5) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has violated Section 8(a)(1) and (5) by failing to remit contributions to the Security Workers Health and Welfare Fund and to the Security

Workers Severance and Retirement Fund for hours worked by unit employees during the period from October 15 to November 17, 1999, we shall order the Respondent to make the funds whole by paying them the amounts set forth in the compliance specification, with interest.

ORDER

The National Labor Relations Board orders that the Respondent, Heritage Services, Inc., Baltimore, Maryland, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing to remit contributions to the Security Workers Health and Welfare Fund and to the Security Workers Severance and Retirement Fund for hours worked by employees in the following unit during the period from October 15 to November 17, 1999:

All security guard employees employed by Respondent at the National Computer Center and Security West facilities of the Social Security Administration; excluding officers, directors, clerical employees, lieutenant and sergeant employees, project manager, all other non-guard employees, managerial employees and supervisors as defined in the Act.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Pay to the funds set forth below the following amounts, plus interest accrued to the date of payment. Interest shall be computed in accordance with *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

Security Workers Health and Welfare Fund	\$54,250.44
Security Workers Severance and Retirement Fund	8,750.07
Total:	\$63,000.51

(b) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(c) Within 14 days after service by the Region, post at its facility in Baltimore, Maryland, copies of the attached

notice marked "Appendix."¹ Copies of the notice, on forms provided by the Regional Director for Region 5, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since October 15, 1999.

(d) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. September 19, 2001

Wilma B. Liebman, Member

John C. Truesdale, Member

Dennis P. Walsh, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

¹ If this Order is enforced by a Judgment of the United States Court of Appeals, the words in the notice "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT fail to remit contributions to the Security Workers Health and Welfare Fund and to the Security Workers Severance and Retirement Fund for hours worked by employees in the following unit during the period from October 15 to November 17, 1999.

All security guard employees employed by us at the National Computer Center and Security West facilities of the Social Security Administration; excluding officers, directors, clerical employees, lieutenant and sergeant employees, project manager, all other non-guard employees, managerial employees and supervisors as defined in the Act.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL pay to the funds set forth below the following amounts, plus interest accrued to the date of payment:

Security Workers Health and Welfare Fund	\$54,250.44
Security Workers Severance and Retirement Fund	8,750.07
Total:	\$63,000.51

HERITAGE SERVICES, INC.